

UNITED STATES DISTRICT COURT

JOSEPH P. SCHMITT, pro se.,
Plaintiff,

FILED
IN CLERKS OFFICE

v.

CIVIL ACTION NO. 2007-10571-RWZ
2007 MAY 4 P 12:12

CARTER THOMAS, et al.,
Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

PLAINTIFF'S ADDENDUM TO,
PLAINTIFF'S MOTION FOR RECONSIDERATION OF
COURT'S (RYA W. ZOBEL) ORDER DATED FEBRUARY 5, 2007

Now comes the pro se Plaintiff and submits the following addendum to the Court.

BACKGROUND: The Court dismissed the above action against a number of defendants based on the defendants allegations that said pro se plaintiff did not perfect service in a timely fashion.

On or about February 16, 2007 plaintiff filed via U.S. Mail the following; "PLAINTIFF'S MOTION FOR RECONSIDERATION OF COURT'S (RYA W. ZOBEL) order dated february 5, 2007."

As further grounds to support Plaintiff's motion for reconsider Plaintiff states the following:

As held in, YOUNG v. QUINLAN, 960 F.2d 351, (3rd Cir. 1992), the Courts held:

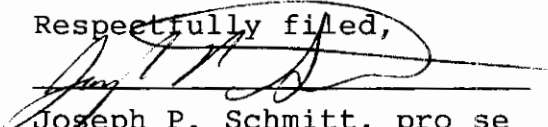
"Since the district court granted Young leave to proceed in forma pauperis, it was the district court's responsibility to serve process upon all defendants and thus Young should not be penalized for failure to effect service where he failed through no fault of his own."

IN CONCLUSION:

Plaintiff respectfully states that the case law presented in both the present addendum and original motion submitted to this Court clearly supports pro se Plaintiff and as such the Court must vacate its decision of February 5, 2007 to dismiss the case against all defendants except Carter Thomas and Ernest Therien. See docket entry number 43.

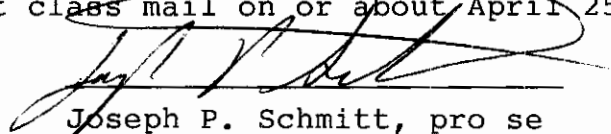
Dated: April 24, 2007

Respectfully filed,


Joseph P. Schmitt, pro se
Nemasket Correctional Facility
30 Administration Road
Bridgewater, Massachusetts
02324-3230

CERTIFICATE OF SERVICE

I, Joseph P. Schmitt, hereby certify that a true copy of the above pleadings were served upon Jody T. Adams, counsel of record for the defendants, via first class mail on or about April 25, 2007

A handwritten signature in black ink, appearing to read "Joseph P. Schmitt", is written over a horizontal line.

Joseph P. Schmitt, pro se
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